



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

Ms. Ann Marie DeBiase, Director
Air & Radiation Management Administration
Maryland Department of the Environment
2500 Broening Highway
Baltimore, Maryland 21224

May 31, 2000

Dear Ms. DeBiase:

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in Environmental Defense Fund (EDF) v. Environmental Protection Agency (EPA), No. 97-1637, that the EPA must make an affirmative determination that the submitted Motor Vehicle Emission Budgets (the budgets) contained in State Implementation Plans (SIPs) are consistent with applicable requirements for attainment of the National Ambient Air Quality Standards (NAAQS) before they are used to test the conformity of Transportation Improvement Programs (TIPs) or Long Range Transportation Plans. In addition, EPA agreed to make these submitted budgets available for public comment and to respond to those comments when announcing our determination of the adequacy of those budgets.

On December 21, 1999, the Maryland Department of the Environment (MDE) formally submitted SIP revisions consisting of changes to the budgets contained in the 2005 attainment demonstration (attainment plan) for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area as well as revisions to the budgets contained in the Post 99 Rate-of-Progress (ROP) plans for Cecil County, the Maryland portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area. These Post 99 ROP plans are for the milestone years of 2002 and 2005. The attainment plan and Post 99 ROP plans are collectively termed the Phase II plan.

On March 2, 2000, a notice was posted on EPA's web site at <http://www.epa.gov/oms/traq>, for the purpose of opening EPA's 30-day public comment period on the adequacy of the budgets in your revised Phase II plan. That notice also informed the public that the MDE had posted the Phase II plan on its website. EPA's March 2, 2000 website notice provided a link to and the address for the MDE website where interested members of the public could access the Phase II plan. EPA's public comment period closed on April 3, 2000. Enclosed please find the Technical Support Document (TSD) prepared in support of our findings regarding the adequacy of your revised budgets. Please see Section II of the TSD regarding the comments received.

We have reviewed the budgets in your December 21, 1999 revised Phase II plan in accordance with the procedures and criteria for review in the following sections of the Conformity Rule: 40 CFR Part 93, Sections 93.118(e)(4)(i) through (e)(4)(vi) and Section 93.118(e)(5).

The enclosed TSD details EPA's review of the revised budgets and provides our responses to the comments received. Based upon that review and after consideration of the comments received, EPA finds the budgets in Maryland's revised Phase II plan for the Philadelphia-Wilmington-Trenton Area (Cecil County) are adequate for transportation conformity purposes.

I call your attention to the Tier 2/Sulfur Rulemaking related discussion in Section III of the enclosed TSD. Because Tier 2/Sulfur Rulemaking reductions are needed for demonstrating attainment in the Philadelphia-Wilmington-Trenton area, we are including a condition in our adequacy finding that conformity determinations may not take credit for Tier 2 until the budgets of the attainment plan are revised to reflect Tier 2 benefits. EPA believes that the budgets do not need to be revised immediately to include Tier 2 benefits in order for us to find the budgets adequate. However, since the Tier 2 Rule is now final, without this condition, all the Tier 2 reductions could be used for increases in vehicle miles traveled above those already provided for in the attainment plan. Therefore, we are including a condition in our adequacy finding which prohibits the use of Tier 2 emission reductions in conformity determinations until the budgets of the attainment plan are revised to reflect Tier 2 benefits.

We will be posting today's findings on EPA's website at, <http://www.epa.gov/oms/traq> and we will also announce today's findings on the motor vehicle budgets in the Federal Register. That announcement will be published in approximately one week. The findings of adequacy of the budgets of Maryland's revised Phase II Plan for the Philadelphia-Wilmington-Trenton Area (Cecil County) will be effective 15 days after publication of the announcement in the Federal Register.

If you or your staff have any questions please feel free to contact Marcia L. Spink, Associate Director for Air Programs at (215) 814-2104 or Robert Kramer, Chief, Energy, Radiation and Indoor Environment Branch at (215) 814-2704.

Sincerely,

Judith M. Katz, Director
Air Protection Division

Enclosure

cc: Marsha Kaiser (MDOT)
Howard Simons (MDOT)
Paul Lang (FHWA, DE)
Steve Rapley (FHWA, MD)
David Salidino (WILMAPCO)
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